

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF: Erik Martz et al.  
SERIAL NO: Not assigned                      GROUP ART UNIT: Not assigned  
FILED: Herewith                      EXAMINER: Not assigned  
CUSTOMER NO.: 27162  
FOR: Chisels and Procedure for Insertion of Spinal Implant in a Spinal  
Disc Space  
ATTY/DKT NO.: 525400-343

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SIR:

Pursuant to 37 C.F.R. §1.56(a), Applicant(s) hereby cite(s) the enclosed documents listed on the attached copy of Form PTO-1449 which are believed to be material to the patentability of the above-identified application.

This Information Disclosure Statement is filed in accordance with the paragraph of 37 CFR §1.97 indicated below:

- X   §1.97(b)              This Information Disclosure Statement is filed:
- (1) Within three months of the filing date of a national application; OR
  - (2) Within three months of the date of entry of the national stage of an international application; OR
  - (3) Before the mailing of a first Office Action on the merits.  
No fee or statement is required.

       §1.97(c) This Information Disclosure Statement is filed after the period specified in paragraph (b) above, but before the mailing date of either:

- (1) A Final Action or under 37 CFR §1.113; OR
- (2) A Notice of Allowance under 37 CFR §1.311; AND

is accompanied by either: (check one)

- The statement as specified in 37 CFR §1.97(e) set out below; OR  
       The fee of \$180.00 under 37 CFR §1.17(p).

\_\_\_\_§1.97(d) This Information Disclosure Statement is filed after the mailing date of either:

- (1) a Final Action or under 37 CFR §1.113; OR
- (2) A Notice of Allowance under 37 CFR §1.311;

BUT filed on or before payment of the Issue Fee; AND  
is accompanied by:

- (1) The statement as specified in 37 CFR §1.97(e) as set forth below; AND
- (2) Petition is hereby made under 37 CFR §1.97(d) for consideration of this Information Disclosure Statement; AND,
- (3) The petition fee of \$180.00 set out in 37 CFR §1.17(i).

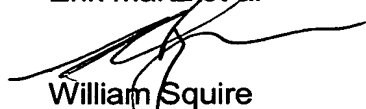
\_\_\_\_§1.97(e) The undersigned Attorney hereby states that:

\_\_\_\_ each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing date of this Information Disclosure Statement;  
or

\_\_\_\_ no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, or to the knowledge of the undersigned Attorney after making reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing date of the Information Disclosure Statement.

The Commissioner is authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 03-0678.

Respectfully submitted,  
Erik Martz et al



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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

**Complete if Known**

Application Number	Not assigned <b>10/520794</b>
Filing Date	Herewith
First Named Inventor	Erik Martz
Group Art Unit	Not assigned
Examiner Name	Not assigned
Attorney Docket Number	525400-343

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**U.S. PATENT DOCUMENTS**

Examiner Initial*	Cite No. <sup>1</sup>	Document Number Number-Kid Code <sup>2</sup> (if known)	Publication- Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-4,743,256	05/10/1988	Brantigan	See international search report
		US-5,571,109	11/05/1996	Bertagnoli	" "
		US-2002/068941	06/06/2002	Hanson	" "
		US-695,783		Beam	
		US-740,937		Smith et al.	
		US-3,848,601	11/19/1974	Ma	
		US-4,697,586	10/06/1987	Gazale	
		US-4,736,738	Liposvsek et al.	04/12/1988	
		US-5,722,977	Wihelmy	03/03/1998	
		US-5,800,437	Gustilo et al.	09/01/1998	
		US-5,957,836	Johnson	09/28/1999	
		US-6,096,038	Michelson	08/01/2000	
		US-6,110,175	Scholl	08/29/2000	

**FOREIGN PATENT DOCUMENTS**

Examiner Initial*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)	Publication- Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		WO 01 62166	08/30/2001	McGahan	See international search report	X
		WO 02 34144	05/02/2002	Foley	"	X
		International search report	10/21/2003			X
		WO 99/09914				

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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Sheet 2 Of 3

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		US-6,174,311	01/16/2001	Branch	
		US-6,224,607	05/01/2001	Michelson	
		US-6,277,149	08/21/2001	Boyle	
		US-60/397,232	05/19/2002		
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<b>Substitute for form 1449A/PTO</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	Not assigned <b>10/520792</b>
				Filing Date	Herewith
				First Named Inventor	Erik Maratz
				Group Art Unit	Not assigned
				Examiner Name	Not assigned
Sheet	3	Of	3	Attorney Docket Number	525400-343

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initial*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		Posterior Lumbar Interbody Fusion Technique using the Variable Screw Placement Spinal Fixation System, John W. Brantigan et al. Spine: State of the Art Reviews, Vol. 6, No 1, pages 177-198, January 1992, Hanley & Belfus, Inc., Philadelphia, PA	

Examiner Signature		Date Considered	
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